

**STATE OF FLORIDA  
BOARD OF MEDICINE**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO. 2019-35169**

**HUGO MARTIN ESPINOSA, M.D.,**

**Respondent.**

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**ADMINISTRATIVE COMPLAINT**

COMES NOW the Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine ("Board") against Respondent, Hugo Martin Espinosa, M.D., and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes; chapter 456, Florida Statutes; and chapter 458, Florida Statutes.
2. At all times material to this complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 116074.

3. Respondent's address of record is 4379 West 16th Avenue, Hialeah, Florida 33012.

4. An alternate address for Respondent is 1580 Santa Barbara Boulevard, The Villages, Florida 32159.

5. From on or about March 3, 2016, until in or around August of 2017, Respondent treated Patient A.D. for Major Depressive Disorder and Bipolar Disorder.

6. On May 30, 2017, Respondent changed Patient A.D.'s diagnosis from Major Depressive Disorder to Bipolar Disorder.

7. Respondent did not clearly document in the record why he changed Patient A.D.'s diagnosis from Major Depressive Disorder to Bipolar Disorder.

8. Respondent prescribed Patient A.D. various benzodiazepines<sup>1</sup>, including alprazolam<sup>2</sup>, lorazepam<sup>3</sup>, temazepam<sup>4</sup>, diazepam<sup>5</sup>, and

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<sup>1</sup> Benzodiazepines are a class of drugs used for treating anxiety, panic attacks, depression, insomnia, seizures, nausea, vomiting, and for muscle relaxation.

<sup>2</sup> A schedule IV benzodiazepine used to treat anxiety and panic disorders.

<sup>3</sup> A schedule IV benzodiazepine used to treat anxiety.

<sup>4</sup> A schedule IV benzodiazepine used to treat insomnia.

<sup>5</sup> A schedule IV benzodiazepine used to treat anxiety, alcohol withdrawal, and seizures, and to relieve muscle spasms and provide sedation before medical procedures.

clonazepam<sup>6</sup>. Respondent switched between these medications throughout his treatment of Patient A.D.

9. Throughout his treatment of Patient A.D., Respondent prescribed Patient A.D. various antidepressants, mood-stabilizing drugs, and anti-psychotics, including Wellbutrin, Escitalopram, Lamotrigine, and Seroquel. Respondent switched between these medications throughout the course of his treatment of Patient A.D.

10. Respondent did not adequately justify in his medical records the reasons for switching between these medications.

11. Respondent also prescribed Patient A.D. oxycodone<sup>7</sup> for a foot injury on or about February 22, 2017.

12. It is outside the scope of the practice of a psychiatrist to prescribe an opioid for foot pain.

13. Respondent also prescribed Patient A.D. alprazolam at the same time Respondent prescribed her oxycodone.

14. Opioids, including oxycodone, can have significant drug interactions with benzodiazepines, such as alprazolam.

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<sup>6</sup> A schedule IV benzodiazepine used to prevent and control seizures and panic attacks.

<sup>7</sup> An opioid analgesic used to relieve moderate to severe pain.

15. The standard of care requires that benzodiazepines not be prescribed along with opioids without a sufficient justification.

16. Respondent violated the standard of care by prescribing opioids along with benzodiazepines without a sufficient justification.

17. Respondent did not adequately document concerns for potential drug interactions in his records.

### **COUNT ONE**

18. Petitioner realleges and fully incorporates paragraphs one (1) through sixteen (16) as if fully stated herein.

19. Section 458.331(1)(t)1., Florida Statutes (2015-2017), subjects a licensed physician to discipline for committing medical malpractice as defined in section 456.50, Florida Statutes (2015-2017). Sections 456.50(1)(e) and (g), Florida Statutes (2015-2017), define medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure per the standard of care specified in section 766.102, Florida Statutes (2015-2017). Section 766.102(1), Florida Statutes (2015-2017), specifies that the prevailing professional standard of care for a physician shall be that level of care, skill, and treatment which, in light of all relevant

surrounding circumstances, is recognized as acceptable and appropriate by a reasonably prudent similar physician.

20. Respondent fell below the prevailing professional standard of care in his treatment of Patient A.D. by prescribing benzodiazepines in combination with opioids without sufficient justification.

21. Based on the foregoing, Respondent violated section 458.331(1)(t), Florida Statutes (2015-2017).

### **COUNT TWO**

22. Petitioner realleges and fully incorporates paragraphs one (1) through seventeen (17) as if fully stated herein.

23. Section 458.331(1)(m), Florida Statutes (2015-2017), subjects a licensed physician to discipline for failing to keep legible, as defined by Department rule in consultation with the Board, medical records that identify the licensed physician who is responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

24. Section 458.331(1)(nn), Florida Statutes (2015-2017), subjects a licensed physician to discipline for violating any provision of chapter 456 or chapter 458, or any rules adopted pursuant thereto.

25. Florida Administrative Code Rule 64B8-9.003(2)–(3) (2015–2017) provides standards for adequacy of medical records and states that a licensed physician shall maintain patient medical records with sufficient detail to clearly demonstrate why the course of treatment was undertaken and the medical record shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed or administered; reports of consultations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient.

26. Respondent failed to create, keep, and/or maintain written legible medical records that justified the course of treatment of Patient A.D. in one or more of the following ways:

- a. Respondent failed to clearly document in the medical record why he changed Patient A.D.'s diagnosis from Major Depressive Disorder to Bipolar Disorder;
- b. Respondent failed to adequately justify in the medical records the reasons for switching between the various benzodiazepines, anti-depressants, mood stabilizing drugs, and anti-psychotics; and
- c. Respondent failed to adequately document concerns for potential drug interactions in his records.

27. Based on the foregoing, Respondent has violated section 458.331(1)(m) and/or section 458.331(1)(nn), Florida Statutes (2015-2017), by failing to keep legible medical records that justify the course of treatment of the patient.

**WHEREFORE**, the Petitioner respectfully requests that the Board enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or

collected, remedial education and/or any other relief that the Board deems appropriate.

**SIGNED this 3<sup>rd</sup> day of May, 2021.**

Scott A. Rivkees, M.D.  
State Surgeon General

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK

CLERK: *Bridget Coates*  
DATE: May 3, 2021

*/s/ Jeremy A. Trimble*  
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**PCP: April 30, 2021**

**PCP Members: Georges El-Bahri**



## **NOTICE OF RIGHTS**

**Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.**

**A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.**

**Please be advised that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.**

## **NOTICE REGARDING ASSESSMENT OF COSTS**

**Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.**